

By: Nelson, et al.

S.B. No. 530

A BILL TO BE ENTITLED

AN ACT

1
2 relating to physical activity requirements and physical fitness
3 assessment for certain public school students.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subsections (1) and (1-1), Section 28.002,
6 Education Code, are amended to read as follows:

7 (1) A school district shall ~~[The State Board of Education,~~
8 ~~after consulting with educators, parents, and medical~~
9 ~~professionals, by rule may]~~ require a student enrolled in
10 kindergarten or a grade level below grade nine to participate in
11 moderate or vigorous daily physical activity for at least 30
12 minutes as part of a school district's physical education
13 curriculum ~~[or through structured activity during a school campus's~~
14 ~~daily recess, except that the board may not require more than 30~~
15 ~~minutes of daily physical activity]~~. If a school district
16 determines, for any particular grade level, that requiring moderate
17 or vigorous daily physical activity is impractical due to
18 scheduling concerns or other factors, the district may as an
19 alternative require a student in that grade level to participate in
20 moderate or vigorous physical activity for at least 135 minutes
21 during each school week ~~[the board adopts rules under this~~
22 ~~subsection, the board must ensure by rule that students enrolled in~~
23 ~~middle and junior high school settings are allowed to meet the~~
24 ~~physical activity requirement by participating in physical~~

1 ~~activity twice each week throughout the school year or the option to~~
2 ~~schedule at least two semesters overall].~~ Additionally, a school
3 district may as an alternative require a student enrolled in a grade
4 level for which the district uses block scheduling to participate
5 in moderate or vigorous physical activity for at least 225 minutes
6 during each period of two school weeks. A school district [~~If the~~
7 ~~board adopts rules under this subsection, the board~~] must provide
8 for an exemption for:

9 (1) any student who is unable to participate in the
10 required [~~daily~~] physical activity because of illness or
11 disability; and

12 (2) a middle school or junior high school student who
13 participates in an extracurricular activity with a moderate or
14 vigorous physical activity component that is considered a
15 structured activity under rules adopted by the commissioner [~~State~~
16 ~~Board of Education~~].

17 (1-1) In adopting rules relating to an activity described by
18 Subsection (1)(2), the commissioner [~~State Board of Education~~] may
19 permit an exemption for a student who participates in a
20 school-related activity or an activity sponsored by a private
21 league or club only if the student provides proof of participation
22 in the activity.

23 SECTION 2. Subsection (k), Section 28.004, Education Code,
24 is amended to read as follows:

25 (k) A school district shall publish in the student handbook
26 and post on the district's Internet website, if the district has an
27 Internet website:

1 (1) a statement of the policies adopted to ensure that
2 elementary school, middle school, and junior high school students
3 engage in at least the amount and level [~~30 minutes per school day~~
4 ~~or 135 minutes per school week~~] of physical activity required by
5 Section 28.002(1); [and]

6 (2) a statement of:

7 (A) the number of times during the preceding year
8 the district's school health advisory council has met;

9 (B) whether the district has adopted and enforces
10 policies to ensure that district campuses comply with agency
11 vending machine and food service guidelines for restricting student
12 access to vending machines; and

13 (C) whether the district has adopted and enforces
14 policies and procedures that prescribe penalties for the use of
15 tobacco products by students and others on school campuses or at
16 school-sponsored or school-related activities; and

17 (3) a statement providing notice to parents that they
18 can request in writing their child's physical fitness assessment
19 results at the end of the school year.

20 SECTION 3. Chapter 38, Education Code, is amended by adding
21 Subchapter C to read as follows:

22 SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

23 Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided
24 by Subsection (b), a school district annually shall assess the
25 physical fitness of students enrolled in kindergarten through grade
26 12.

27 (b) A school district is not required to assess a student

1 for whom, as a result of disability or other condition identified by
2 commissioner rule, the assessment instrument adopted under Section
3 38.102 is inappropriate.

4 Sec. 38.102. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The
5 commissioner by rule shall adopt an assessment instrument to be
6 used by a school district in assessing student physical fitness
7 under this subchapter.

8 (b) The assessment instrument must:

9 (1) be based on factors related to student health,
10 including the following factors that have been identified as
11 essential to overall health and function:

12 (A) aerobic capacity;

13 (B) body composition; and

14 (C) muscular strength, endurance, and
15 flexibility; and

16 (2) include criterion-referenced standards specific
17 to a student's age and gender and based on the physical fitness
18 level required for good health.

19 Sec. 38.103. REPORTING OF SUMMARY RESULTS. (a) A school
20 district shall compile the results of the physical fitness
21 assessment required by this subchapter and provide summary results,
22 aggregated by grade level and any other appropriate category
23 identified by commissioner rule, to the agency. The summary
24 results may not contain the names of individual students or
25 teachers.

26 (b) The results of individual student performance on the
27 physical fitness assessment instrument are confidential and may be

1 released only in accordance with state and federal law.

2 Sec. 38.104. ANALYSIS OF RESULTS. (a) The agency shall
3 analyze the results received by the agency under this subchapter
4 and identify, for each school district, any correlation between the
5 results and the following:

- 6 (1) student academic achievement levels;
- 7 (2) student attendance levels;
- 8 (3) student obesity;
- 9 (4) student disciplinary problems; and
- 10 (5) school meal programs.

11 (b) The agency may contract with a public or private entity
12 for that entity to conduct all or part of the analysis required by
13 Subsection (a).

14 (c) Not later than September 1 of each year, the agency
15 shall report the findings of the analysis under this section of the
16 results obtained during the preceding school year to the School
17 Health Advisory Committee established under Section 1001.0711,
18 Health and Safety Code, for use by the committee in:

19 (1) assessing the effectiveness of coordinated health
20 programs provided by school districts in accordance with Section
21 38.014; and

22 (2) developing recommendations for modifications to
23 coordinated health program requirements or related curriculum.

24 Sec. 38.105. DONATIONS. The agency and each school
25 district may accept donations made to facilitate implementation of
26 this subchapter.

27 Sec. 38.106. RULES. The commissioner shall adopt rules

1 necessary to implement this subchapter.

2 SECTION 4. The commissioner of education shall adopt the
3 physical fitness assessment instrument required under Subchapter
4 C, Chapter 38, Education Code, as added by this Act, and rules
5 necessary to implement that subchapter not later than the date that
6 enables the instrument to be used by school districts during the
7 2007-2008 school year.

8 SECTION 5. Notwithstanding Section 11, Chapter 784, Acts of
9 the 79th Legislature, Regular Session, 2005, Section 38.014,
10 Education Code, as amended by that Act, applies beginning with the
11 2007-2008 school year.

12 SECTION 6. Subsection (1), Section 28.002, Education Code,
13 as amended by this Act, applies to students enrolled in
14 kindergarten or a grade level below grade six beginning with the
15 2007-2008 school year and to students enrolled in grade levels six
16 through eight beginning with the 2008-2009 school year.

17 SECTION 7. Except as otherwise provided by this Act, this
18 Act applies beginning with the 2007-2008 school year. This Act
19 shall apply to junior high or middle schools only upon adoption of a
20 coordinated school health program for these grades by the Texas
21 Education Agency.

22 SECTION 8. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2007.